

No. 23-16141

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Robert F. Kennedy, Jr.,

Plaintiff-Appellant,

vs.

Google LLC, and YouTube, LLC,

Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California
No. 3:23-cv-03880
Hon. Trina Thompson

**DECLARATION OF AMARYLLIS KENNEDY IN SUPPORT OF
EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL**

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DECLARATION OF AMARYLLIS KENNEDY

I, Amaryllis Kennedy, declare as follows:

1. I am over the age of 18 and a senior adviser for Team Kennedy, the organization formed by my father-in-law, Robert F. Kennedy, Jr., to support his campaign for President of the United States. I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called to do so.

2. I am submitting this declaration in support of Bobby's emergency motion for an injunction pending appeal to prohibit Defendants Google LLC and YouTube, LLC, from using their medical misinformation policy to censor videos of Bobby speaking on matters of public concern during the campaign.

3. Bobby has spoken regularly about the safety and efficacy of vaccines over the past decade. To my knowledge, he was not censored on YouTube until 2021, after Google adopted a new policy, dubbed the "vaccine misinformation policy." That is the policy that Google cited most frequently during the past two years when removing videos his speech on matters of public concern, including speeches he has made, and interviews he has given, during his political campaign. Since this case was filed, Google merged its medical misinformation policies into a single "medical misinformation" policy.

4. Although Google does not censor all videos of Bobby speaking, it has removed several high-profile speeches and interviews he has given during the

campaign, including a speech at the New Hampshire Institute of Politics and interviews he gave to Joe Rogan and Jordan Peterson. Google removed the New Hampshire speech from YouTube back in early March 2023. It removed the Peterson video around June 20, 2023. It removed video of the Rogan interview around June 17, 2023. In late June, Google also removed an interview between Bobby and former New York Post reporter Al Guart from YouTube.

5. I am not aware of Google removing any videos from the Team Kennedy YouTube page, but it has removed videos posted by third parties who support Bobby's candidacy. For example, attached to this declaration as Exhibit "A" is a true and correct copy of an email one of Bobby's supporters sent the campaign after Google removed his posting of the Rogan interview. The campaign receives similar reports from people all the time.

6. Google's actions have created a chilling effect surrounding the campaign. I often hear from people who say that Google's actions have deterred them from posting content about Bobby. The chilling effect is particularly bad because Google uses its medical misinformation policy to remove entire speeches and interviews, much of which have nothing to do with vaccines, or even with public health matters. This has created an environment of self-censorship, both within and outside the campaign. The campaign cannot afford to lose its YouTube channel—a constant threat since Google says it can use the misinformation policy

to issue strikes that can lead it to suspend an account—so we may choose not to post videos there or edit content to satisfy the misinformation policy.

7. Similarly, Google’s threat to issue a strike to anybody who posts video of Bobby’s speech that violates the medical misinformation policy—with three strikes leading to the permanent suspension of an account—often causes people to avoid posting content related to Bobby’s campaign.

8. This censorship, and the chilling effect it creates, have created hurdles for the campaign. Since the mainstream media has largely avoided covering Bobby, the campaign relies heavily on ordinary people who post and share videos of Bobby speaking on matters of public concern. YouTube is by far the largest platform for sharing such videos. It has also become the second largest search engine on the Internet. It is a critical part of our campaign infrastructure.

9. I suspect that Google’s censorship of Bobby’s speech will increase as the primaries draw closer.

10. The campaign has repeatedly asked Google to stop censoring Bobby’s speech on matters of public concern during the political campaign. It has refused. It insists that it has the right censor Bobby, even as a political candidate. That is not all. As a general matter, Google allows public figures to control the “Google Knowledge” box that appears on the right side of an internet page, or the top of the page when viewing it on a mobile device, in response to a search result. However,

despite repeated requests to Google, the campaign has not been allowed to control the box for Bobby. Thus, the knowledge box contains several pieces of inaccurate information about Bobby. I believe this is indicative of Google's general hostility to Bobby's campaign and an example of why Google will not change its behavior unless a court orders it to.

Under penalty of perjury, under the laws of the United States of America, I declare that the foregoing is true and correct. Executed this 11th day of September 2023, at Los Angeles, California.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Amaryllis Kennedy

EXHIBIT “A”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

----- Forwarded message -----

[REDACTED]

Date: Sat, Jun 17, 2023 at 11:35

Subject: Re: 📢 YouTube removed your content

[REDACTED]

They rejected my appeal:



Hi [REDACTED]

We have reviewed your appeal for the following:

Video: RFK Jr on Rogan - Pfizer COVID Vaccine Trial

We reviewed your content carefully, and have confirmed that it violates our medical misinformation policy. We know this is probably disappointing news, but it's our job to make sure that YouTube is a safe place for all.

How does this impact your content

- We won't be putting your content back up on YouTube.
- If your appeal was for a warning, you will not be given another warning in the future.
- If your appeal was for a strike, the strike will remain on your channel.

You can find more information about warnings and strikes at the YouTube Help Center.

Thanks,
The YouTube team

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CERTIFICATE OF SERVICE

Robert F. Kennedy, Jr. v. Google, LLC, et al.
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23-16141

At the time of service, I was over 18 years of age and not a party to this action. I am employed by JW Howard/Attorneys, LTD. in the County of San Diego, State of California. My business address is 600 West Broadway, Suite 1400, San Diego, California 92101.

On September 11, 2023, I caused **DECLARATION OF AMARYLLIS KENNEDY IN SUPPORT OF EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL** to be filed and served via the Court's Electronic Service upon the parties listed on the Court's service list for this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 11, 2023 at San Diego, California.

/s/ Dayna Dang
Dayna Dang, Paralegal
dayna@jwhowardattorneys.com